ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೫೧ Volume 151	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಸೆಪ್ಟೆಂಬರ್ ೧, ೨೦೧೬ (ಭಾದ್ರಪದ ೧೦, ಶಕ ವರ್ಷ ೧೯೩೮) Bengaluru, Thursday, September 1, 2016 (Bhadrapada 10, Shaka Varsha 1938)	ಸಂಚಿಕೆ ೩೫ Issue 35

ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 18 ಕೇಶಾಪ್ರ 2016, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22/27ನೇ ಜೂನ್ 2016

2016ನೇ ಸಾಲಿನ 03–03–2016ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016) ದಿನಾಂಕ: 31–12–2015 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಶ್ರೀನಿವಾಸ್ ಆರ್. ಜೋಷಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರ),
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1st January, 2016/Pausha 11, 1937 (Saka)

The following Act of Parliament received the assent of the President on the 31st December, 2015, and is hereby published for general information:-

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

No.2 OF 2016

[31 st December, 2015]

An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, here in under and for matters connected therewith or incidental thereto.

WHEREAS, the provisions of the Constitution confer powers and impose duties, under clause (3) of article 15, clauses (e) and (f.) of article 39, article 45 and article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the Government of India has acceded on the 11th December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of United Nations, which has prescribed a set of standards to be adhered to by all State parties in securing the best interest of the child;

AND WHEREAS, it is expedient to re-enact the Juvenile Justice (Care and Protection of Children) Act, 2000 to make comprehensive provisions for children alleged and found to be 56 of 2000. in conflict with law and children in need of care and protection, taking into consideration the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993), and other related international instruments.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.- (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2015.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including -

(i) apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law;

(ii) procedures and decisions or orders relating to rehabilitation, adoption, re-integration, and restoration of children in need of care and protection.

2. Definitions.- In this Act, unless the context otherwise requires,-

(1) "abandoned child" means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;

(2) "adoption" means the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child;

(3) "adoption regulations" means the regulations framed by the Authority and notified by the Central Government in respect of adoption;

(4) "administrator" means any district official not below the rank of Deputy Secretary to the State, on whom magisterial powers have been conferred;

(5) "aftercare" means making provision of support, financial or otherwise, to persons, who have completed the age of eighteen years but have not completed the age of twenty-one years, and have left any institutional care to join the mainstream of the society;

(6) "authorised foreign adoption agency" means a foreign social or child welfare agency that is authorised by the Central Adoption Resource Authority on the recommendation of their Central Authority or Government department of that country for sponsoring the application of non-resident Indian or overseas citizen of India or persons of Indian origin or foreign prospective adoptive parents for adoption of a child from India;

(7) "Authority" means the Central Adoption Resource Authority constituted under section 68;

(8) "begging" means-

(i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, under any pretence;

(ii) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(9) "best interest of child" means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development;

(10) "Board" means a Juvenile Justice Board constituted under section 4;

(11) "Central Authority" means the Government department recognised as such under the Hague Convention on Protection of Children and Cooperation in Inter-country Adoption (1993);

(12) "child" means a person who has not completed eighteen years of age;

(13) "child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;

(14) "child in need of care and protection" means a child-

(i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or

(ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or

(iii) who resides with a person (whether a guardian of the child or not) and such person-

(a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or

(b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or

(c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

(iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or

(v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

(vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or

(vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

(viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

(ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or

(x) who is being or is likely to be abused for unconscionable gains; or

(xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

(xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

(15) "child friendly" means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child;

(16) "child legally free for adoption" means a child declared as such by the Committee after making due inquiry under section 38;

(17) "Child Welfare Officer" means an officer attached to a Children's Home, for carrying out the directions given by the Committee or, as the case may be, the Board with such responsibility as may be prescribed;

(18) "Child Welfare Police Officer" means an officer designated as such under sub-section (1) of section 107;

(19) "Children's Home" means a Children's Home, established or maintained, in every district or group of districts, by the State Government, either by itself, or through a voluntary or non-governmental organisation, and is registered as such for the purposes specified in section 50;

(20) "Children's Court" means a court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court under the Protection of Children (4 of 2006) from Sexual Offences Act, 2012, wherever existing and where such courts have not (32 of 2012) been designated, the Court of Sessions having jurisdiction to try offences under the Act;

(21) "child care institution" means Children Home, open shelter, observation home, special home, place of safety, Specialised Adoption Agency and a fit facility recognised under this Act for providing care and protection to children, who are in need of such services;

(22) "Committee" means Child Welfare Committee constituted under section 27;

(23) "court" means a civil court, which has jurisdiction in matters of adoption and guardianship and may include the District Court, Family Court and City Civil Courts;

(24) "corporal punishment" means the subjecting of a child by any person to physical punishment that involves the deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming the child;

(25) "childline services" means a twenty-four hours emergency outreach service for children in crisis which links them to emergency or long-term care and rehabilitation service;

(26) "District Child Protection Unit" means a Child Protection Unit for a District, established by the State Government under section 106, which is the focal point to ensure the implementation of this Act and other child protection measures in the district;

(27) "fit facility" means a facility being run by a governmental organisation or a registered voluntary or non-governmental organisation, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognised as fit for the said purpose, by the Committee, as the case may be, or the Board, under sub-section (1) of section 51;

(28) "fit person" means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognised as fit for the said purpose, by the Committee or, as the case may be, the Board, to receive and take care ofthe child;

(29) "foster care" means placement of a child, by the Committee for the purpose of alternate care in the domestic environment of a family, other than the child's biological family, that has been selected, qualified, approved and supervised for providing such care;

(30) "foster family" means a family found suitable by the District Child Protection Unit to keep children in foster care under section 44;

(31) "guardian" in relation to a child, means his natural guardian or any other person having, in the opinion of the Committee or, as the case may be, the Board, the actual charge of the child, and recognised by the Committee or, as the case may be, the Board as a guardian in the course of proceedings;

(32) "group foster care" means a family like care facility for children in need of care and protection who are without parental care, aiming on providing personalised care and fostering a sense of belonging and identity, through family like and community based solutions;

(33) "heinous offences" includes the offences for which the minimum punishment under (45 of 1860) the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more;

(34) "inter-country adoption" means adoption of a child from India by non-resident Indian or by a person of Indian origin or by a foreigner;

(35) "juvenile" means a child below the age of eighteen years;

(36) "narcotic drug" and "psychotropic substance" shall have the meanings, respectively, assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985; (61 of 1985)

(37) "no objection certificate" for inter-country adoption means a certificate issued by the Central Adoption Resource Authority for the said purpose;

(38) "non-resident Indian" means a person who holds an Indian passport and is presently residing abroad for more than one year;

(39) "notification" means the notification published in the Official Gazette of India, or as the case may be, in the Gazette of a State, and the expression "notify" shall be construed accordingly;

(40) "observation home" means an observation home established and maintained in every district or group of districts by a State Government, either by itself, or through a voluntary or non-governmental organisation, and is registered as such, for the purposes specified in sub-section (1) of section 47;

(41) "open shelter" means a facility for children, established and maintained by the State Government, either by itself, or through a voluntary or non-governmental organisation under sub-section (1) of section 43, and registered as such, for the purposes specified in that section;

(42) "orphan" means a child-

(i) who is without biological or adoptive parents or legal guardian; or

(ii) whose legal guardian is not willing to take, or capable of taking care of the child;

(43) "overseas citizen of India" means a person registered as such under the Citizenship Act, 1955; (57 of 1955)

(44) "person of Indian origin" means a person, any of whose lineal ancestors is or was an Indian national, and who is presently holding a Person ofIndian Origin Card issued by the Central Government;

(45) "petty offences" includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years; (45 of 1860)

(46) "place of safety" means any place or institution, not being a police lockup or jail, established separately or attached to an observation home or a special home, as the case may be, the person in -charge of which is willing to receive and take care of the children alleged or found to be in conflict with law, by an order of the Board or the Children's Court, both during inquiry and ongoing rehabilitation after having been found guilty for a period and purpose as specified in the order;

(47) "prescribed" means prescribed by rules made under this Act;

(48) "probation officer" means an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958 (20 of 1958) or the Legal-cum- Probation Officer appointed by the State Government under District Child Protection Unit;

(49) "prospective adoptive parents" means a person or persons eligible to adopt a child as per the provisions of section 57;

(50) "public place" shall have the same meaning assigned to it in the Immoral Traffic (Prevention) Act, 1956; (104 of 1956)

(51) "registered", with reference to child care institutions or agencies or facilities managed by the State Government, or a voluntary or non-governmental organisation, means observation homes, special homes, place of safety, children's homes, open shelters or Specialised Adoption Agency or fit facility or any other institution that may come up in response to a particular need or agencies or facilities authorised and registered under section 41, for providing residential care to children, on a short-term or long-term basis;

(52) "relative", in relation to a child for the purpose of adoption under this Act, means a paternal uncle or aunt, or a maternal uncle or aunt, or paternal grandparent or maternal grandparent;

(53) "State Agency" means the State Adoption Resource Agency set up by the State Government for dealing with adoption and related matters under section 67;

(54) "serious offences" includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years; (45 of 1860)

(55) "special juvenile police unit" means a unit of the police force of a district or city or, as the case may be, any other police unit like railway police, dealing with children and designated as such for handling children under section 107;

(56) "special home" means an institution established by a State Government or by a voluntary or non-governmental organisation, registered under section 48, for housing and providing rehabilitative services to children in conflict with law, who are found, through inquiry, to have committed an offence and are sent to such institution by an order of the Board;

(57) "Specialised Adoption Agency" means an institution established by the State Government or by a voluntary or non-governmental organisation and recognised under section 65, for housing orphans, abandoned and surrendered children, placed there by order of the Committee, for the purpose of adoption;

(58) "sponsorship" means provision of supplementary support, financial or otherwise, to the families to meet the medical, educational and developmental needs of the child;

(59) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(60) "surrendered child" means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;

(61) all words and expressions used but not defined in this Act and defined in other Acts shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

GENERAL PRINCIPLES OF CARE AND PROTECTION OF CHILDREN

3. General principles to be followed in administration of Act.- The Central Government, the State Governments, the Board, and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:-

(i) Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.

(ii) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.

(iii) Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.

(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(v) Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

(vi) Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or mal treatment while in contact with the care and protection system, and thereafter.

(vii) Positive measures: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.

(viii) Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.

(ix) Principle of non-waiver of rights: No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non -exercise of a fundamental right shall not amount to waiver.

(x) Principle of equality and non-discrimination: There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.

(xi) Principle of right to privacy and confidentiality: Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.

(xii) Principle of institutionalisation as a measure of last resort: A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

(xiii) Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.

(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

(xv) Principle of diversion: Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

(xvi) Principles of natural Justice: Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

CHAPTER III

JUVENILE JUSTICE BOARD

4. Juvenile Justice Board.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the State Government shall, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging its functions relating to children in conflict with law under this Act.

(2) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of First Class not being Chief Metropolitan Magistrate or Chief Judicial Magistrate (hereinafter referred to as Principal Magistrate) with at least three years experience and two social workers selected in such manner as may be prescribed, of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

(3) No social worker shall be appointed as a member of the Board unless such person has been actively involved in health, education, or welfare activities pertaining to children for atleast seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law.

(4) No person shall be eligible for selection as a member of the Board, if he –

(i) has any past record of violation of human rights or child rights;

(ii) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence;

(iii) has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government;

(iv) has ever indulged in child abuse or employment of child labour or any other violation of human rights or immoral act.

(5) The State Government shall ensure that induction training and sensitisation of all members including Principal Magistrate of the Board on care, protection, rehabilitation, legal provisions and justice for children, as may be prescribed, is provided within a period of sixty days from the date of appointment.

(6) The term of office of the members of the Board and the manner in which such member may resign shall be such, as may be prescribed.

(7) The appointment of any member of the Board, except the Principal Magistrate, may be terminated after holding an inquiry by the State Government, if he -

(i) has been found guilty of misuse of power vested under this Act; or

(ii) fails to attend the proceedings of the Board consecutively for three months without any valid reason; or

(iii) fails to attend less than three-fourths of the sittings in a year; or

(iv) becomes ineligible under sub-section (4) during his term as a member.

5. Placement of person, who cease to be a child during process of inquiry.- Where an inquiry has been initiated in respect of any child under this Act, and during the course of such inquiry, the child completes the age of eighteen years, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued by the Board and orders may be passed in respect of such person as if such person had continued to be a child.

6. Placement of persons, who committed an offence, when person was below the age of eighteen years.- (1) Any person, who has completed eighteen years of age, and is apprehended for committing an offence when he was below the age of eighteen years, then, such person shall, subject to the provisions of this section, be treated as a child during the process of inquiry.

(2) The person referred to in sub-section (1), if not released on bail by the Board shall be placed in a place of safety during the process of inquiry.

(3) The person referred to in sub-section (1) shall be treated as per the procedure specified under the provisions of this Act.

7. Procedure in relation to Board.- (1) The Board shall meet at such times and shall observe such rules in regard to the transaction of business at its meetings, as may be prescribed and shall ensure that all procedures are child friendly and that the venue is not intimidating to the child and does not resemble as regular courts.

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not in sitting.

(3) ABoard may act notwithstanding the absence of any member of the Board, and no order passed by the Board shall be invalid by the reason only of the absence of any member during any stage of proceedings:

Provided that there shall be atleast two members including the Principal Magistrate present at the time of final disposal of the case or in making an order under sub-section (3) of section 18.

(4) In the event of any difference of opinion among the members of the Board in the interim or final disposal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Principal Magistrate, shall prevail.

8. Powers, functions and responsibilities of the Board.- (1) Notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, the Board constituted for any district shall have the power to deal exclusively with all the proceedings under this Act, relating to children in conflict with law, in the area of jurisdiction of such Board.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Children's Court, when the proceedings come before them under section 19 or in appeal, revision or otherwise.

(3) The functions and responsibilities of the Board shall include'-

(a) ensuring the informed participation of the child and the parent or guardian, in every step of the process;

(b) ensuring that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation;

(c) ensuring availability of legal aid for the child through the legal services institutions;

(d) wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings;

(e) directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed;

(f) adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14;

(g) transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved;

(h) disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organisation, as may be required;

(i) conducting inquiry for declaring fit persons regarding care of children in conflict with law;

(j) conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government;

(k) order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard;

(l) order the police for registration of first information report for offences committed against any child in need of care and protection, under this Act or any other law for the time being in force, on a written complaint by a Committee in this regard;

(m) conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home; and

(n) any other function as may be prescribed.

9. Procedure to be followed by a Magistrate who has not been empowered under this Act.- (1) When a Magistrate, not empowered to exercise the powers of the Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child, he shall, without any delay, record such opinion and forward the child immediately along with the record of such proceedings to the Board having jurisdiction.

(2) In case a person alleged to have committed an offence claims before a court other than a Board, that the person is a child or was a child on the date of commission of the offence, or if the court itself is of the opinion that the person was a child on the date of commission of the offence, the said court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as may be:

Provided that such a claim may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such a claim shall be determined in accordance with the provisions contained in this Act and the rules made thereunder even if the person has ceased to be a child on or before the date of commencement of this Act.

(3) If the court finds that a person has committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Board for passing appropriate orders and the sentence, if any, passed by the court shall be deemed to have no effect.

(4) In case a person under this section is required to be kept in protective custody, while the person's claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.

CHAPTER IV

PROCEDURE IN RELATION TO CHILDREN IN CONFLICT WITH LAW

10. Apprehension of child alleged to be in conflict with law.- (1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended:

Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government shall make rules consistent with this Act,-

(i) to provide for persons through whom (including registered voluntary or non-governmental organisations) any child alleged to be in conflict with law may be produced before the Board;

(ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.

11. Role of person in whose charge child in conflict with law is placed.- Any person in whose charge a child in conflict with law is placed, shall while the order is in force, have responsibility of the said child, as if the said person was the child's parent and responsible for the child's maintenance:

Provided that the child shall continue in such person's charge for the period stated by the Board, notwithstanding that the said child is claimed by the parents or any other person except when the Board is of the opinion that the parent or any other person are fit to exercise charge over such child.

12. Bail to a person who is apparently a child alleged to be in conflict with law.- (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

13. Information to parents, guardian or probation officer.- (1) Where a child alleged to be in conflict with law is apprehended, the officer designated as Child Welfare Police Officer of the police station, or the special juvenile police unit to which such child is brought, shall, as soon as possible after apprehending the child, inform-

(i) the parent or guardian of such child, if they can be found, and direct them to be present at the Board before which the child is produced; and

(ii) the probation officer, or if no probation officer is available, a Child Welfare Officer, for preparation and submission within two weeks to the Board, a social investigation report containing information regarding the antecedents and

family background of the child and other material circumstances likely to be of assistance to the Board for making the inquiry.

(2) Where a child is released on bail, the probation officer or the Child Welfare Officer shall be informed by the Board.

14. Inquiry by Board regarding child in conflict with law.- (1) Where a child alleged to be in conflict with law is produced before Board, the Board shall hold an inquiry in accordance with the provisions of this Act and may pass such orders in relation to such child as it deems fit under sections 17 and 18 of this Act.

(2) The inquiry under this section shall be completed within a period of four months from the date of first production of the child before the Board, unless the period is extended, for a maximum period of two more months by the Board, having regard to the circumstances of the case and after recording the reasons in writing for such extension.

(3) A preliminary assessment in case of heinous offences under section 15 shall be disposed of by the Board within a period of three months from the date of first production of the child before the Board.

(4) If inquiry by the Board under sub-section (2) for petty offences remains inconclusive even after the extended period, the proceedings shall stand terminated:

Provided that for serious or heinous offences, in case the Board requires further extension of time for completion of inquiry, the same shall be granted by the Chief Judicial Magistrate or, as the case may be, the Chief Metropolitan Magistrate, for reasons to be recorded in writing.

(5) The Board shall take the following steps to ensure fair and speedy inquiry, namely:-

(a) at the time of initiating the inquiry, the Board shall satisfy itself that the child in conflict with law has not been subjected to any ill-treatment by the police or by any other person, including a lawyer or probation officer and take corrective steps in case of such ill-treatment;

(b) in all cases under the Act, the proceedings shall be conducted in simple manner as possible and care shall be taken to ensure that the child, against whom the proceedings have been instituted, is given child-friendly atmosphere during the proceedings;

(c) every child brought before the Board shall be given the opportunity of being heard and participate in the inquiry;

(d) cases of petty offences, shall be disposed of by the Board through summary proceedings, as per the procedure prescribed under the Code of Criminal Procedure, 1973; (2 of 1974)

(e) inquiry of serious offences shall be disposed of by the Board, by following the procedure, for trial in summons cases under the Code of Criminal Procedure, 1973; (2 of 1974)

(f) inquiry of heinous offences,-

(i) for child below the age of sixteen years as on the date of commission of an offence shall be disposed of by the Board under clause (e);

(ii) for child above the age of sixteen years as on the date of commission of an offence shall be dealt with in the manner prescribed under section 15.

15. Preliminary assessment into heinous offences by Board.- (1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

Explanation.-For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973: (2 of 1974)

Provided that the order of the Board to dispose of the matter shall be applealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.

16. Review of pendency of inquiry.- (1) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review the pendency of cases of the Board once in every three months, and shall direct the Board to increase the frequency of its sittings or may recommend the constitution of additional Boards.

(2) The number of cases pending before the Board, duration of such pendency, nature of pendency and reasons thereof shall be reviewed in every six months by a high level committee consisting of the Executive Chairperson of the State Legal Services Authority, who shall be the Chairperson, the Home Secretary, the Secretary responsible for the implementation of this Act in the State and a representative from a voluntary or non-governmental organisation to be nominated by the Chairperson.

(3) The information of such pendency shall also be furnished by the Board to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate and the District Magistrate on quarterly basis in such form as may be prescribed by the State Government.

17. Orders regarding a child not found to be in conflict with law.- (1) Where a Board is satisfied on inquiry that the child brought before it has not committed any offence, then notwithstanding anything contrary contained in any other law for the time being in force, the Board shall pass order to that effect.

(2) In case it appears to the Board that the child referred to in sub-section (1) is in need of care and protection, it may refer the child to the Committee with appropriate directions.

18. Orders regarding child found to be in conflict with law.- (1) Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,-

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;

(b) direct the child to participate in group counselling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine:

Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;

(j) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformative services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home:

Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to-

(i) attend school; or

(ii) attend a vocational training centre; or

(iii) attend a therapeutic centre; or

(iv) prohibit the child from visiting, frequenting or appearing at a specified place;

or

(v) undergo a de-addiction programme.

(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.

19. Powers of Children's Court.- (1) After the receipt of preliminary assessment from the Board under section 15, the Children's Court may decide that-

(i) there is a need for trial of the child as an adult as per the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and pass appropriate orders after trial subject to the provisions of this section and section 21, considering the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere;

(ii) there is no need for trial of the child as an adult and may conduct an inquiry as a Board and pass appropriate orders in accordance with the provisions of section 18.

(2) The Children's Court shall ensure that the final order, with regard to a child in conflict with law, shall include an individual care plan for the rehabilitation of child, including follow up by the probation officer or the District Child Protection Unit or a social worker.

(3) The Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail:

Provided that the reformative services including educational services, skill development, alternative therapy such as counselling, behaviour modification therapy, and psychiatric support shall be provided to the child during the period of his stay in the place of safety.

(4) The Children's Court shall ensure that there is a periodic follow up report every year by the probation officer or the District Child Protection Unit or a social worker, as required, to evaluate the progress of the child in the place of safety and to ensure that there is no ill-treatment to the child in any form.

(5) The reports under sub-section (4) shall be forwarded to the Children's Court for record and follow up, as may be required.

20. Child attained age of twenty-one years and yet to complete prescribed term of stay in place of safety.- (1) When the child in conflict with the law attains the age of twenty-one years and is yet to complete the term of stay, the Children's Court shall provide for a follow up by the probation officer or the District Child Protection Unit or a social worker or by itself, as required, to evaluate if such child has undergone reformative changes and if the child can be a contributing member of the society and for this purpose the progress records of the child under sub-section (4) of section 19, along with evaluation of relevant experts are to be taken into consideration.

(2) After the completion of the procedure specified under sub-section (1), the Children's Court may-

(i) decide to release the child on such conditions as it deems fit which includes appointment of a monitoring authority for the remainder of the prescribed term of stay;

(ii) decide that the child shall complete the remainder of his term in a jail:

Provided that each State Government shall maintain a list of monitoring authorities and monitoring procedures as may be prescribed.

21. Order that may not be passed against a child in conflict with law.- No child in conflict with law shall be sentenced to death or for life imprisonment without the possibility of release, for any such offence, either under the provisions of this Act or under the provisions of the Indian Penal Code or any other law for the time being in force. (45 of 1860)

22. Proceeding under Chapter VIII of the Code of Criminal Procedure not to apply against child.- Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, (2 of 1974) or any preventive detention law for the time being in force, no proceeding shall be instituted and no order shall be passed against any child under Chapter VIII of the said Code.

23. No joint proceedings of child in conflict with law and person not a child.- (1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, there shall be no joint proceedings of a child alleged to be in conflict with law, with a person who is not a child.

(2) If during the inquiry by the Board or by the Children's Court, the person alleged to be in conflict with law is found that he is not a child, such person shall not be tried along with a child.

24. Removal of disqualification on the findings of an offence.- (1) Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:

Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) The Board shall make an order directing the Police, or by the Children's court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:

Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court.

25. Special provision in respect of pending cases.- Notwithstanding anything contained in this Act, all proceedings in respect of a child alleged or found to be in conflict with law pending before any Board or court on the date of commencement of this Act, shall be continued in that Board or court as if this Act had not been enacted.

26. Provision with respect of run away child in conflict with law.- (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, any police officer may take charge of a child in conflict with law who has run away from a special home or an observation home or a place of safety or from the care of a person or institution under whom the child was placed under this Act.

(2) The child referred to in sub-section (1) shall be produced, within twenty-four hours, preferably before the Board which passed the original order in respect of that child, if possible, or to the nearest Board where the child is found.

(3) The Board shall ascertain the reasons for the child having run away and pass appropriate orders for the child to be sent back either to the institution or person from whose custody the child had run away or any other similar place or person, as the Board may deem fit:

Provided that the Board may also give additional directions regarding any special steps that may be deemed necessary, for the best interest of the child.

(4) No additional proceeding shall be instituted in respect of such child.

CHAPTER V

CHILD WELFARE COMMITTEE

27. Child Welfare Committee.- (1) The State Government shall by notification in the Official Gazette constitute for every district, one or more Child Welfare Committees for exercising the powers and to discharge the duties conferred on such Committees in relation to children in need of care and protection under this Act and ensure that induction training and sensitisation of all members of the committee is provided within two months from the date of notification.

(2) The Committee shall consist of a Chairperson, and four other members as the State Government may think fit to appoint, of whom atleast one shall be a woman and another, an expert on the matters concerning children.

(3) The District Child Protection Unit shall provide a Secretary and other staff that may be required for secretarial support to the Committee for its effective functioning.

(4) No person shall be appointed as a member of the Committee unless such person has been actively involved in health, education or welfare activities pertaining to children for atleast seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.

(5) No person shall be appointed as a member unless he possesses such other qualifications as may be prescribed.

(6) No person shall be appointed for a period of more than three years as a member of the Committee.

(7) The appointment of any member of the Committee shall be terminated by the State Government after making an inquiry, if-

(i) he has been found guilty of misuse of power vested on him under this Act;

(ii) he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(iii) he fails to attend the proceedings of the Committee consecutively for three months without any valid reason or he fails to attend less than three-fourths of the sittings in a year.

(8) The District Magistrate shall conduct a quarterly review of the functioning of the Committee.

(9) The Committee shall function as a Bench and shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

(10) The District Magistrate shall be the grievances redressal authority for the Child Welfare Committee and anyone connected with the child, may file a petition before the District Magistrate, who shall consider and pass appropriate orders.

28. Procedure in relation to Committee.- (1) The Committee shall meet at least twenty days in a month and shall observe such rules and procedures with regard to the transaction of business at its meetings, as may be prescribed.

(2) A visit to an existing child care institution by the Committee, to check its functioning and well being of children shall be considered as a sitting of the Committee.

(3) A child in need of care and protection may be produced before an individual member of the Committee for being placed in a Children's Home or fit person when the Committee is not in session.

(4) In the event of any difference of opinion among the members of the Committee at the time of taking any decision, the opinion of the majority shall prevail but where there is no such majority, the opinion of the Chairperson shall prevail.

(5) Subject to the provisions of sub-section (1), the Committee may act, notwithstanding the absence of any member of the Committee, and no order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding:

Provided that there shall be at least three members present at the time of final disposal of the case.

29. Powers of Committee.- (1) The Committee shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

(2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force, but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

30. Functions and responsibilities of Committee.- The functions and responsibilities of the Committee shall include-

(i) taking cognizance of and receiving the children produced before it;

(ii) conducting inquiry on all issues relating to and affecting the safety and well¬being of the children under this Act;

(iii) directing the Child Welfare Officers or probation officers or District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report before the Committee;

(iv) conducting inquiry for declaring fit persons for care of children in need of care and protection;

(v) directing placement of a child in foster care;

(vi) ensuring care, protection, appropriate rehabilitation or restoration of children in need of care and protection, based on the child's individual care plan and passing necessary directions to parents or guardians or fit persons or children's homes or fit facility in this regard;

(vii) selecting registered institution for placement of each child requiring institutional support, based on the child's age, gender, disability and needs and keeping in mind the available capacity of the institution;

(viii) conducting at least two inspection visits per month of residential facilities for children in need of care and protection and recommending action for improvement in quality of services to the District Child Protection Unit and the State Government;

(ix) certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together;

(x) ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process, as may be prescribed;

(xi) declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry;

(xii) taking *suo motu* cognizance of cases and reaching out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members;

(xiii) taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012; (32 of 2012)

(xiv) dealing with cases referred by the Board under sub-section (2) of section 17;

(xv) co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government;

(xvi) in case of a complaint of abuse of a child in any child care institution, the Committee shall conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or childline services, as the case may be;

(xvii) accessing appropriate legal services for children;

(xviii) such other functions and responsibilities, as may be prescribed.

CHAPTER VI

PROCEDURE IN RELATION TO CHILDREN IN NEED OF CARE AND PROTECTION

31. Production before Committee.- (1) Any child in need of care and protection may be produced before the Committee by any of the following persons, namely:-

(i) any police officer or special juvenile police unit or a designated Child Welfare Police Officer or any officer of District Child Protection Unit or inspector appointed under any labour law for the time being in force;

(ii) any public servant;

(iii) Childline Services or any voluntary or non-governmental organisation or any agency as may be recognised by the State Government;

(iv) Child Welfare Officer or probation officer;

(v) any social worker or a public spirited citizen;

(vi) by the child himself; or

(vii) any nurse, doctor or management of a nursing home, hospital or maternity home:

Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty- four hours excluding the time necessary for the journey.

(2) The State Government may make rules consistent with this Act, to provide for the manner of submitting the report to the Committee and the manner of sending and entrusting the child to children's home or fit facility or fit person, as the case may be, during the period of the inquiry.

32. Mandatory reporting regarding a child found separated from guardian.- (1) Any individual or a police officer or any functionary of any organisation or a nursing home or hospital or maternity home, who or which finds and takes charge, or is handed over a child who appears or claims to be abandoned or lost, or a child who appears or claims to be an orphan without family support, shall within twenty-four hours (excluding the time necessary for the journey), give information to the Childline Services or the nearest police station or to a Child Welfare Committee or to the District Child Protection Unit, or hand over the child to a child care institution registered under this Act, as the case may be.

(2) The information regarding a child referred to in sub-section (1) shall be mandatorily uploaded on a portal as may be specified by the Central Government or the Committee or the District Child Protection Unit or the child care institution, as the case may be.

33. Offence of non-reporting.- If information regarding a child as required under section 32 is not given within the period specified in the said section, then, such act shall be regarded as an offence.

34. Penalty for non- reporting.- Any person who has committed an offence under section 33 shall be liable to imprisonment up to six months or fine of ten thousand rupees or both.

35. Surrender of children.- (1) A parent or guardian, who for physical, emotional and social factors beyond their control, wishes to surrender a child, shall produce the child before the Committee.

(2) If, after prescribed process of inquiry and counselling, the Committee is satisfied, a surrender deed shall be executed by the parent or guardian, as the case may be, before the Committee.

(3) The parents or guardian who surrendered the child, shall be given two months time to reconsider their decision and in the intervening period the Committee shall either allow, after due inquiry, the child to be with the parents or guardian under supervision, or place the child in a Specialised Adoption Agency, if he or she is below six years of age, or a children's home if he is above six years.

36. Inquiry.- (1) On production of a child or receipt of a report under section 31, the Committee shall hold an inquiry in such manner as may be prescribed and the Committee, on its own or on the report from any person or agency as specified in sub-section (2) of section 31, may pass an order to send the child to the children's home or a fit facility or fit person, and for speedy social investigation by a social worker or Child Welfare Officer or Child Welfare Police Officer:

Provided that all children below six years of age, who are orphan, surrendered or appear to be abandoned shall be placed in a Specialised Adoption Agency, where available.

(2) The social investigation shall be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child:

Provided that for orphan, abandoned or surrendered children, the time for completion of inquiry shall be as specified in section 38.

(3) After the completion of the inquiry, if Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may send the child to a Specialised Adoption Agency if the child is below six years of age, children's home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child, as may be prescribed, or till the child attains the age of eighteen years:

Provided that the situation of the child placed in a children's home or with a fit facility or person or a foster family, shall be reviewed by the Committee, as may be prescribed.

(4) The Committee shall submit a quarterly report on the nature of disposal of cases and pendency of cases to the District Magistrate in the manner as may be prescribed, for review of pendency of cases.

(5) After review under sub-section (4), the District Magistrate shall direct the Committee to take necessary remedial measures to address the pendency, if necessary and send a report of such reviews to the State Government, who may cause the constitution of additional Committees, if required:

Provided that if the pendency of cases continues to be unaddressed by the Committee even after three months of receiving such directions, the State Government shall terminate the said Committee and shall constitute a new Committee.

(6) In anticipation of termination of the Committee and in order that no time is lost in constituting a new Committee, the State Government shall maintain a standing panel of eligible persons to be appointed as members of the Committee.

(7) In case of any delay in the constitution of a new Committee under sub-section (5), the Child Welfare Committee of a nearby district shall assume responsibility in the intervening period.

37. Orders passed regarding a child in need of care and protection.- (1) The Committee on being satisfied through the inquiry that the child before the Committee is a child in need of care and protection, may, on consideration of Social Investigation Report submitted by Child Welfare Officer and taking into account the child's wishes in case the child is sufficiently mature to take a view, pass one or more of the following orders, namely:-

(a) declaration that a child is in need of care and protection;

(b) restoration of the child to parents or guardian or family with or without supervision of Child Welfare Officer or designated social worker;

(c) placement of the child in Children's Home or fit facility or Specialised Adoption Agency for the purpose of adoption for long term or temporary care, keeping in mind the capacity of the institution for housing such children, either after reaching the conclusion that the family of the child cannot be traced or even if traced, restoration of the child to the family is not in the best interest of the child;

(d) placement of the child with fit person for long term or temporary care;

(e) foster care orders under section 44;

(f) sponsorship orders under section 45;

(g) directions to persons or institutions or facilities in whose care the child is placed, regarding care, protection and rehabilitation of the child, including directions relating to immediate shelter and services such as medical attention, psychiatric and psychological support including need-based counselling, occupational therapy or behaviour modification therapy, skill training, legal aid, educational services, and other developmental activities, as required, as well as follow-up and coordination with the District Child Protection Unit or State Government and other agencies;

(h) declaration that the child is legally free for adoption under section 38.

(2) The Committee may also pass orders for –

(i) declaration of fit persons for foster care;

(ii) getting after care support under section 46 of the Act; or

(iii) any other order related to any other function as may be prescribed.

38. Procedure for declaring a child legally free for adoption.- (1) In case of orphan and abandoned child, the Committee shall make all efforts for tracing the parents or guardians of the child and on completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption:

Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age:

Provided further that notwithstanding anything contained in this regard in any other law for the time being in force, no first information report shall be registered against any biological parent in the process of inquiry relating to an abandoned or surrendered child under this Act.

(2) In case of surrendered child, the institution where the child has been placed by the Committee on an application for surrender, shall bring the case before the Committee immediately on completion of the period specified in section 35, for declaring the child legally free for adoption.

(3) Notwithstanding anything contained in any other law for the time being in force, a child of a mentally retarded parents or a unwanted child of victim of sexual assault, such child may be declared free for adoption by the Committee, by following the procedure under this Act.

(4) The decision to declare an orphan, abandoned or surrendered child as legally free for adoption shall be taken by at least three members of the Committee.

(5) The Committee shall inform the State Agency and the Authority regarding the number of children declared as legally free for adoption and number of cases pending for decision in the manner as may be prescribed, every month.

CHAPTER VII

REHABILITATION AND SOCIAL RE-INTEGRATION

39. Process of rehabilitation and social re-integration.- (1) The process of rehabilitation and social integration of children under this Act shall be undertaken, based on the individual care plan of the child, preferably through family based care such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care:

Provided that all efforts shall be made to keep siblings placed in institutional or non¬institutional care, together, unless it is in their best interest not to be kept together.

(2) For children in conflict with law the process of rehabilitation and social integration shall be undertaken in the observation homes, if the child is not released on bailor in special homes or place of safety or fit facility or with a fit person, if placed there by the order of the Board.

(3) The children in need of care and protection who are not placed in families for any reason may be placed in an institution registered for such children under this Act or with a fit person or a fit facility, on a temporary or long-term basis, and the process of rehabilitation and social integration shall be undertaken wherever the child is so placed.

(4) The Children in need of care and protection who are leaving institutional care or children in conflict with law leaving special homes or place of safety on attaining eighteen years of age, may be provided financial support as specified in section 46, to help them to re-integrate into the mainstream of the society.

40. Restoration of child in need of care and protection.- (1) The restoration and protection of a child shall be the prime objective of any Children's Home, Specialised Adoption Agency or open shelter.

(2) The Children's Home, Specialised Adoption Agency or an open shelter, as the case may be, shall take such steps as are considered necessary for the restoration and protection of a child deprived of his family environment temporarily or permanently where such child is under their care and protection.

(3) The Committee shall have the powers to restore any child in need of care and protection to his parents, guardian or fit person, as the case may be, after determining the suitability of the parents or guardian or fit person to take care of the child, and give them suitable directions.

Explanation.- For the purposes of this section, "restoration and protection of a child" means restoration to-

(a) parents;

(b) adoptive parents;

(c) foster parents;

(d) guardian; or

(e) fit person.

41. Registration of child care institutions.- (1) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a State Government or by voluntary or non-governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as may be prescribed, within a period of six months from the date of commencement of this Act, regardless of whether they are receiving grants from the Central Government or, as the case may be, the State Government or not:

Provided that the institutions having valid registration under the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) on the date of commencement of this Act shall be deemed to have been registered under this Act.

(2) At the time of registration under this section, the State Government shall determine and record the capacity and purpose of the institution and shall register the institution as a Children's Home or open shelter or Specialised Adoption Agency or observation home or special home or place of safety, as the case may be.

(3) On receipt of application for registration under sub-section (1), from an existing or new institution housing children in need of care and protection of children in conflict with law, the State Government may grant provisional registration, within one month from the date of receipt of application, for a maximum period of six months, in order to bring such institution under the purview of this Act, and shall determine the capacity of the Home which shall be mentioned in the registration certificate:

Provided that if the said institution does not fulfill the prescribed criteria for registration, within the period specified in sub-section (1), the provisional registration shall stand cancelled and the provisions of sub-section (5) shall apply.

(4) If the State Government does not issue a provisional registration certificate within one month from the date of application, the proof of receipt of application for registration shall be treated as provisional registration to run an institution for a maximum period of six months.

(5) If the application for registration is not disposed of within six months by any officer or officers of any State Government, it shall be regarded as dereliction of duty on their part by their higher controlling authority and appropriate departmental proceedings shall be initiated.

(6) The period of registration of an institution shall be five years, and it shall be subject to renewal in every five years.

(7) The State Government may, after following the procedure as may be prescribed, cancel or withhold registration, as the case may be, of such institutions which fail to provide rehabilitation and reintegration services as specified in section 53 and till such time that the registration of an institution is renewed or granted, the State Government shall manage the institution.

(8) Any child care institution registered under this section shall be duty bound to admit children, subject to the capacity of the institution, as directed by the Committee, whether they are receiving grants from the Central Government or, as the case may be, the State Government or not.

(9) Notwithstanding anything contained in any other law for the time being in force, the inspection committee appointed under section 54, shall have the powers to inspect any institution housing children, even if not registered under this Act to determine whether such institution is housing children in need of care and protection.

42. Penalty for non-registration of child care institutions.- Any person, or persons, in-charge of an institution housing children in need of care and protection and children in conflict with law, who fails to comply with the provisions of sub-section (1) of section 41, shall be punished with imprisonment which may extend to one year or a fine of not less than one lakh rupees or both:

Provided that every thirty days delay in applying for registration shall be considered as a separate offence.

43. Open shelter.- (1) The State Government may establish and maintain, by itself or through voluntary or non-governmental organisations, as many open shelters as may be required, and such open shelters shall be registered as such, in the manner as may be prescribed.

(2) The open shelters referred to in sub-section (1) shall function as a community based facility for children in need of residential support, on short term basis, with the objective of protecting them from abuse or weaning them, or keeping them, away from a life on the streets.

(3) The open shelters shall send every month information, in the manner as may be prescribed, regarding children availing the services of the shelter, to the District Child Protection Unit and the Committee.

44. Foster care.- (1) The children in need of care and protection may be placed in foster care, including group foster care for their care and protection through orders of the Committee, after following the procedure as may be prescribed in this regard, in a family

which does not include the child's biological or adoptive parents or in an unrelated family recognised as suitable for the purpose by the State Government, for a short or extended period of time.

(2) The selection of the foster family shall be based on family's ability, intent, capacity and prior experience of taking care of children.

(3) All efforts shall be made to keep siblings together in foster families, unless it is in their best interest not to be kept together.

(4) The State Government, after taking into account the number of children, shall provide monthly funding for such foster care through District Child Protection Unit after following the procedure, as may be prescribed, for inspection to ensure well being of the children.

(5) In cases where children have been placed in foster care for the reason that their parents have been found to be unfit or incapacitated by the Committee, the child's parents may visit the child in the foster family at regular intervals, unless the Committee feels that such visits are not in the best interest of the child, for reasons to be recorded therefore; and eventually, the child may return to the parent's homes once the parents are determined by the Committee to be fit to take care of the child.

(6) The foster family shall be responsible for providing education, health and nutrition to the child and shall ensure the overall well being of the child in such manner, as may be prescribed.

(7) The State Government may make rules for the purpose of defining the procedure, criteria and the manner in which foster care services shall be provided for children.

(8) The inspection of foster families shall be conducted every month by the Committee in the form as may be prescribed to check the well-being ofthe child and whenever a foster family is found lacking in taking care of the child, the child shall be removed from that foster family and shifted to another foster family as the Committee may deem fit.

(9) No child regarded as adoptable by the Committee shall be given for long-term foster care.

45. Sponsorship.- (1) The State Government shall make rules for the purpose of undertaking various

programmes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship.

(2) The criteria for sponsorship shall include,-

(i) where mother is a widow or divorced or abandoned by family;

(ii) where children are orphan and are living with the extended family;

(iii) where parents are victims of life threatening disease;

(iv) where parents are incapacitated due to accident and unable to take care of children both financially and physically.

(3) The duration of sponsorship shall be such as may be prescribed.

(4) The sponsorship programme may provide supplementary support to families, to Children's Homes and to special homes to meet medical, nutritional, educational and other needs of the children, with a view to improving their quality of life.

46. After care of children leaving child care institution.- Any child leaving a child care institution on completion of eighteen years of age may be provided with financial support in order to facilitate child's re-integration into the mainstream of the society in the manner as may be prescribed.

47. Observation homes.- (1) The State Government shall establish and maintain in every district or a group of districts, either by itself, or through voluntary or non-governmental organisations, observation homes, which shall be registered under section 41 of this Act, for temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under this Act.

(2) Where the State Government is of the opinion that any registered institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of such child alleged to be in conflict with law during the pendency of any inquiry under this Act, it may register such institution as an observation home for the purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management and monitoring of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a child alleged to be in conflict with law and the circumstances under which, and the manner in which, the registration of an observation home may be granted or withdrawn.

(4) Every child alleged to be in conflict with law who is not placed under the charge of parent or guardian and is sent to an observation home shall be segregated according to the child's age and gender, after giving due consideration to physical and mental status of the child and degree of the offence committed.

48. Special homes.- (1) The State Government may establish and maintain either by itself or through voluntary or non-governmental organisations, special homes, which shall be registered as such, in the manner as may be prescribed, in every district or a group of districts, as may be required for rehabilitation of those children in conflict with law who are found to have committed an offence and who are placed there by an order of the Juvenile Justice Board made under section 18.

(2) The State Government may, by rules, provide for the management and monitoring of special homes, including the standards and various types of services to be provided by them which are necessary for social re-integration of a child, and the circumstances under which, and the manner in which, the registration of a special home may be granted or withdrawn.

(3) The rules made under sub-section (2) may also provide for the segregation and separation of children found to be in conflict with law on the basis of age, gender, the nature of offence committed by them and the child's mental and physical status.

49. Place of safety.- (1) The State Government shall set up atleast one place of safety in a State registered under section 41, so as to place a person above the age of eighteen years or child in conflict with law, who is between the age of sixteen to eighteen years and is accused of or convicted for committing a heinous offence.

(2) Every place of safety shall have separate arrangement and facilities for stay of such children or persons during the process of inquiry and children or persons convicted of committing an offence.

(3) The State Government may, by rules, prescribe the types of places that can be designated as place of safety under sub-section (1) and the facilities and services that may be provided therein.

50. Children's Home.- (1) The State Government may establish and maintain, in every district or group of districts, either by itself or through voluntary or non-governmental organisations, Children's Homes, which shall be registered as such, for the placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation.

(2) The State Government shall designate any Children's Home as a home fit for children with special needs delivering specialised services, depending on requirement.

(3) The State Government may, by rules, provide for the monitoring and management of Children's Homes including the standards and the nature of services to be provided by them, based on individual care plans for each child.

51. Fit facility.- (1) The Board or the Committee shall recognise a facility being run by a Governmental organisation or a voluntary or non-governmental organisation registered under any law for the time being in force to be fit to temporarily take the responsibility of a child for a specific purpose after due inquiry regarding the suitability of the facility and the organisation to take care of the child in such manner as may be prescribed.

(2) The Board or the Committee may withdraw the recognition under sub-section (1) for reasons to be recorded in writing.

52. Fit person.- (1) The Board or the Committee shall, after due verification of credentials, recognise any person fit to temporarily receive a child for care, protection and treatment of such child for a specified period and in the manner as may be prescribed.

(2) The Board or Committee, as the case may be, may withdraw the recognition granted under sub-section (1) for reasons to be recorded in writing.

53. Rehabilitation and re-integration services in institutions registered under this Act and management thereof.- (1) The services that shall be provided, by the institutions registered under this Act in the process of rehabilitation and re-integration of children, shall be in such manner as may be prescribed, which may include-

(i) basic requirements such as food, shelter, clothing and medical attention as per the prescribed standards;

(ii) equipment such as wheel-chairs, prosthetic devices, hearing aids, braille kits, or any other suitable aids and appliances as required, for children with special needs;

(iii) appropriate education, including supplementary education, special education, and appropriate education for children with special needs:

Provided that for children between the age of six to fourteen years, the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) shall. apply;

(iv) skill development;

(v) occupational therapy and life skill education;

(vi) mental health interventions, including counselling specific to the need of the child;

(vii) recreational activities including sports and cultural activities;

(viii) legal aid where required;

(ix) referral services for education, vocational training, de-addiction, treatment of diseases where required;

(x) case management including preparation and follow up of individual care plan;

(xi) birth registration;

(xii) assistance for obtaining the proof of identity, where required; and

(xiii) any other service that may reasonably be provided in order to ensure the well-being of the child, either directly by the State Government, registered or fit individuals or institutions or through referral services.

(2) Every institution shall have a Management Committee, to be set up in a manner as may be prescribed, to manage the institution and monitor the progress of every child.

(3) The officer in-charge of every institution, housing children above six years of age, shall facilitate setting up of children's committees for participating in such activities as may be prescribed, for the safety and well-being of children in the institution.

54. Inspection of institutions registered under this Act.- (1) The State Government shall appoint inspection committees for the State and district, as the case may be, for all institutions registered or recognised to be fit under this Act for such period and for such purposes, as may be prescribed.

(2) Such inspection committees shall mandatorily conduct visits to all facilities housing children in the area allocated, at least once in three months in a team of not less than three members, of whom at least one shall be a woman and one shall be a medical officer, and submit reports of the findings of such visits within a week of their visit, to the District Child Protection Units or State Government, as the case may be, for further action.

(3) On the submission of the report by the inspection committee within a week ofthe inspection, appropriate action shall be taken within a month by the District Child Protection Unit or the State Government and a compliance report shall be submitted to the State Government.

55. Evaluation of functioning of structures.- (1) The Central Government or State Government may independently evaluate the functioning of the Board, Committee, special juvenile police units, registered institutions, or recognised fit facilities and persons, at such period and through such persons or institutions as may be prescribed by that Government.

(2) In case such independent evaluation is conducted by both the Governments, the evaluation made by the Central Government shall prevail.

CHAPTER VIII

ADOPTION

56. Adoption.- (1) Adoption shall be resorted to for ensuring right to family for the orphan, abandoned and surrendered children, as per the provisions of this Act, the rules made thereunder and the adoption regulations framed by the Authority.

(2) Adoption of a child from a relative by another relative, irrespective of their religion, can be made as per the provisions of this Act and the adoption regulations framed by the Authority.

(3) Nothing in this Act shall apply to the adoption of children made under the provisions of the Hindu Adoption and Maintenance Act, 1956. (78 of 1956)

(4) All inter-country adoptions shall be done only as per the provisions of this Act and the adoption regulations framed by the Authority.

(5) Any person, who takes or sends a child to a foreign country or takes part in any arrangement for transferring the care and custody of a child to another person in a foreign country without a valid order from the Court, shall be punishable as per the provisions of section 80.

57. Eligibility of prospective adoptive parents.- (1) The prospective adoptive parents shall be physically fit, financially sound, mentally alert and highly motivated to adopt a child for providing a good upbringing to him.

(2) In case of a couple, the consent of both the spouses for the adoption shall be required.

(3) A single or divorced person can also adopt, subject to fulfilment of the criteria and in accordance with the provisions of adoption regulations framed by the Authority.

(4) A single male is not eligible to adopt a girl child.

(5) Any other criteria that may be specified in the adoption regulations framed by the Authority.

58. Procedure for adoption by Indian prospective adoptive parents living in India.- (1) Indian prospective adoptive parents living in India, irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child, may apply for the same to a Specialised Adoption Agency, in the manner as provided in the adoption regulations framed by the Authority.

(2) The Specialised Adoption Agency shall prepare the home study report of the prospective adoptive parents and upon finding them eligible, will refer a child declared legally free for adoption to them along with the child study report and medical report of the child, in the manner as provided in the adoption regulations framed by the Authority.

(3) On the receipt of the acceptance of the child from the prospective adoptive parents along with the child study report and medical report of the child signed by such parents, the Specialised Adoption Agency shall give the child in pre-adoption foster care and file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(4) On the receipt of a certified copy of the court order, the Specialised Adoption Agency shall send immediately the same to the prospective adoptive parents.

(5) The progress and wellbeing of the child in the adoptive family shall be followed up and ascertained in the manner as provided in the adoption regulations framed by the Authority.

59. Procedure for inter-country adoption of an orphan or abandoned or surrendered child.- (1) If an orphan or abandoned or surrendered child could not be placed with an Indian or non-resident Indian prospective adoptive parent despite the joint effort of the Specialised Adoption Agency and State Agency within sixty days from the date the child has been declared legally free for adoption, such child shall be free for inter-country adoption:

Provided that children with physical and mental disability, siblings and children above five years of age may be given preference over other children for such inter-country adoption, in accordance with the adoption regulations, as may be framed by the Authority.

(2) An eligible non-resident Indian or overseas citizen of India or persons of Indian origin shall be given priority in inter-country adoption of Indian children.

(3) A non-resident Indian or overseas citizen of India, or person of Indian origin or a foreigner, who are prospective adoptive parents living abroad, irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child from India, may apply for the same to an authorised foreign adoption agency, or Central Authority or a concerned Government department in their country of habitual residence, as the case may be, in the manner as provided in the adoption regulations framed by the Authority.

(4) The authorised foreign adoption agency, or Central Authority, or a concerned Government department, as the case may be, shall prepare the home study report of such prospective adoptive parents and upon finding them eligible, will sponsor their application to Authority for adoption of a child from India, in the manner as provided in the adoption regulations framed by the Authority.

(5) On the receipt of the application of such prospective adoptive parents, the Authority shall examine and if it finds the applicants suitable, then, it will refer the application to one of the Specialised Adoption Agencies, where children legally free for adoption are available.

(6) The Specialised Adoption Agency will match a child with such prospective adoptive parents and send the child study report and medical report of the child to such parents, who in turn may accept the child and return the child study and medical report duly signed by them to the said agency.

(7) On receipt of the acceptance of the child from the prospective adoptive parents, the Specialised Adoption Agency shall file an application in the court for obtaining the adoption order, in the manner as provided in the adoption regulations framed by the Authority.

(8) On the receipt of a certified copy of the court order, the specialised adoption agency shall send immediately the same to Authority, State Agency and to the prospective adoptive parents, and obtain a passport for the child.

(9) The Authority shall intimate about the adoption to the immigration authorities of India and the receiving country of the child.

(10) The prospective adoptive parents shall receive the child in person from the specialised adoption agency as soon as the passport and visa are issued to the child.

(11) The authorised foreign adoption agency, or Central Authority, or the concerned Government department, as the case may be, shall ensure the submission of progress reports about the child in the adoptive family and will be responsible for making alternative arrangement in the case of any disruption, in consultation with Authority and concerned Indian diplomatic mission, in the manner as provided in the adoption regulations framed by the Authority.

(12) A foreigner or a person of Indian origin or an overseas citizen of India, who has habitual residence in India, if interested to adopt a child from India, may apply to Authority for the same along with a no objection certificate from the diplomatic mission of his country in India, for further necessary actions as provided in the adoption regulations framed by the Authority.

60. (1) Procedure for inter-country relative adoption.- (1) A relative living abroad, who intends to adopt a child from his relative in India shall obtain an order from the court and apply for no objection certificate from Authority, in the manner as provided in the adoption regulations framed by the Authority.

(2) The Authority shall on receipt of the order under sub-section (1) and the application from either the biological parents or from the adoptive parents, issue no objection certificate under intimation to the immigration authority of India and of the receiving country of the child.

(3) The adoptive parents shall, after receiving no objection certificate under sub-section (2), receive the child from the biological parents and shall facilitate the contact of the adopted child with his siblings and biological parents from time to time.

61. (1) Court procedure and penalty against payment in consideration of adoption.- (1) Before issuing an adoption order, the court shall satisfy itself that -

(a) the adoption is for the welfare of the child; (b) due consideration is given to the wishes of the child having regard to the age and understanding of the child; and (c) that neither the prospective adoptive parents has given or agreed to give nor the specialised adoption agency or the parent or guardian of the child in case of relative adoption has received or agreed to receive any payment or reward in consideration of the adoption, except as permitted under the adoption regulations framed by the Authority towards the adoption fees or service charge or child care corpus.

(2) The adoption proceedings shall be held in camera and the case shall be disposed of by the court within a period of two months from the date of filing.

62. Additional procedural requirements and documentation.- (1) The documentation and other procedural requirements, not expressly provided in this Act with regard to the adoption of an orphan, abandoned and surrendered child by Indian prospective adoptive parents living in India, or by non-resident Indian or overseas citizen of India or person of Indian origin or foreigner prospecti ve adoptive parents, shall be as per the adoption regulations framed by the Authority.

(2) The specialised adoption agency shall ensure that the adoption case of prospective adoptive parents is disposed of within four months from the date of receipt of application and the authorised foreign adoption agency, Authority and State Agency shall track the progress of the adoption case and intervene wherever necessary, so as to ensure that the time line is adhered to.

63. Effect of adoption.- A child in respect of whom an adoption order is issued by the court, shall become the child of the adoptive parents, and the adoptive parents shall become the parents of the child as if the child had been born to the adoptive parents,

for all purposes, including intestacy, with effect from the date on which the adoption order takes effect, and on and from such date all the ties of the child in the family of his or her birth shall stand severed and replaced by those created by the adoption order in the adoptive family:

Provided that any property which has vested in the adopted child immediately before the date on which the adoption order takes effect shall continue to vest in the adopted child subject to the obligations, if any, attached to the ownership of such property including the obligations, if any, to maintain the relatives in the biological family.

64. Reporting of adoption.- Notwithstanding anything contained in any other law for the time being in force, information regarding all adoption orders issued by the concerned courts, shall be forwarded to Authority on monthly basis in the manner as provided in the adoption regulations framed by the Authority, so as to enable Authority to maintain the data on adoption.

65. Specialised Adoption Agencies.- (1) The State Government shall recognise one or more institutions or organisations in each district as a Specialised Adoption Agency, in such manner as may be provided in the adoption regulations framed by the Authority, for the rehabilitation of orphan, abandoned or surrendered children, through adoption and non-institutional care.

(2) The State Agency shall furnish the name, address and contact details of the Specialised Adoption Agencies along with copies of certificate or letter of recognition or renewal to Authority, as soon as the recognition or renewal is granted to such agencies.

(3) The State Government shall get every Specialised Adoption Agency inspected at least once in a year and take necessary remedial measures, if required.

(4) In case any Specialised Adoption Agency is in default in taking necessary steps on its part as provided in this Act or in the adoption regulations framed by the Authority, for getting an orphan or abandoned or surrendered child legally free for adoption from the Committee or in completing the home study report of the prospective adoptive parents or in obtaining adoption order from the court within the stipulated time, such Specialised Adoption Agency shall be punishable with a fine which may extend up to fifty thousand rupees and in case of repeated default, the recognition of the Specialised Adoption Agency shall be withdrawn by the State Government.

66. Adoption of children residing in institutions not registered as adoption agencies.- (1) All the institutions registered under this Act, which may not have been recognised as Specialised Adoption Agencies, shall also ensure that all orphan or abandoned or surrendered children under their care are reported, produced and declared legally free for adoption, by the Committee as per the provisions of section 38.

(2) All institutions referred to in sub-section (1) shall develop formal linkages with nearby Specialised Adoption Agency and shall furnish details of the children declared legally free for adoption to that Specialised Adoption Agency along with all relevant records in the manner as may be prescribed, for the placement of such children in adoption.

(3) If any such institution contravenes the provisions of sub-section (1) or sub-section (2), it shall be liable to fine of fifty thousand rupees for each instance to be imposed by the registering authority and it may also attract de-recognition in the event of persistent flouting of such provisions.

67. State Adoption Resource Agency.- (1) The State Government shall set up a State Adoption Resource Agency for dealing with adoptions and related matters in the State under the guidance of Authority.

(2) The State Agency, wherever already exists, shall be deemed to be set up under this Act.

68. Central Adoption Resource Authority.- The Central Adoption Resource Agency existing before the commencement of this Act, shall be deemed to have been constituted as the Central Adoption Resource Authority under this Act to perform the following functions, namely:-

(a) to promote in-country adoptions and to facilitate inter-State adoptions in co-ordination with State Agency;

(b) to regulate inter-country adoptions;

(c) to frame regulations on adoption and related matters from time to time as may be necessary;

(d) to carry out the functions of the Central Authority under the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption;

(e) any other function as may be prescribed.

69. Steering Committee of Authority.- (1) The Authority shall have a Steering Committee with following members:

(a) Secretary, Ministry of Women and Child Development, Government of India, who shall be the Chairperson-ex officio;

(b) Joint Secretary, Ministry of Women and Child Development, Government of India, dealing with Authority-ex officio;

(c) Joint Secretary, Ministry of Women and Child Development, Government of India, dealing with Finance-ex officio;

(d) one State Adoption Resource Agency and two Specialised Adoption Agencies;

(e) one adoptive parent and one adoptee;

(f) one advocate or a professor having at least ten years of experience in family law;

(g) Member-Secretary, who shall also be Chief Executive Officer of the organisation.

(2) Criteria for the selection or nomination of the Members mentioned at (d) to (f), their tenure as well as the terms and conditions of their appointment shall be such as may be prescribed.

(3) The Steering Committee shall have the following functions, namely:-

(a) to oversee the functioning of Authority and review its working from time to time so that it operates in most effective manner;

(b) to approve the annual budget, annual accounts and audit reports as well as the action plan and annual report of Authority;

(c) to adopt the recruitment rules, service rules, financial rules of Authority as well as the other regulations for the exercise of the administrative and programmatic powers within the organisation, with the prior approval of the Central Government;

(d) any other function that may be vested with it by the Central Government from time to time.

(4) The Steering Committee shall meet once in a month in the manner as may be prescribed.

(5) The Authority shall function from its headquarter and through its regional offices as may be set up as per its functional necessity.

70. Powers of Authority.- (1) For the efficient performance of its functions, Authority shall have the following powers, namely:-

(a) to issue instructions to any Specialised Adoption Agency or a Children Home or any child care institution housing any orphan, abandoned or surrendered child, any State Agency or any authorised foreign adoption agency and such directions shall be complied by such agencies;

(b) recommending to the concerned Government or Authority to take appropriate action against any official or functionary or institution under its administrative control, in case of persistent non-compliance of the instructions issued by it;

(c) forwarding any case of persistent non-compliance of its instructions by any official or functionary or institution to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the same as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973; (2 of 1974)

(d) any other power that may be vested with it by the Central Government.

(2) In case of any difference of opinion in an adoption case, including the eligibility of prospective adoptive parents or of a child to be adopted, the decision of Authority shall prevail.

71. Annual Report of Authority.- (1) The Authority shall submit an annual report to the Central Government in such manner as may be prescribed.

(2) The Central Government shall cause the annual report of Authority to be laid before each House of Parliament.

72. Grants by Central Government.- (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Authority by way of grants such sums of money as the Central Government may think fit for being utilised for performing the functions of Authority under this Act.

(2) The Authority may spend such sums of money as it thinks fit for performing the functions, as prescribed under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

73. Accounts and audit of Authority.- (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of Authority shall be audited by the Comptroller and Auditor¬General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor - General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall, have the same rights and privileges and the Authority in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority.

(5) The Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER IX

OTHER OFFENCES AGAINST CHILDREN

74. Prohibition on disclosure of identity of children.- (1) No report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure, shall disclose the name, address or school or any other particular, which may lead to the identification of a child in conflict with law or a child in need of care and protection or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published:

Provided that for reasons to be recorded in writing, the Board or Committee, as the case may be, holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the best interest of the child.

(2) The Police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of.

(3) Any person contravening the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to two lakh rupees or both.

75. Punishment for cruelty to child.- Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both:

Provided that in case it is found that such abandonment of the child by the biological parents is due to circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the penal provisions of this section shall not apply in such cases:

Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees:

Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees.

76. Employment of child for begging.- (1) Whoever employs or uses any child for the purpose of begging or causes any child to beg shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees:

Provided that, if for the purpose of begging, the person amputates or maims the child, he shall be punishable with rigorous imprisonment for a term not less than seven years which may extend up to ten years, and shall also be liable to fine of five lakh rupees.

(2) Whoever, having the actual charge of, or control over the child, abets the commission of an offence under sub-section (1), shall be punishable with the same punishment as provided for in sub-section (1) and such person shall be considered to be unfit under sub-clause (v) of clause (14) of section 2:

Provided that the said child, shall not be considered a child in conflict with law under any circumstances, and shall be removed from the charge or control of such guardian or custodian and produced before the Committee for appropriate rehabilitation.

77. Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child.- Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees.

78. Using a child for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance.- Whoever uses a child, for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine up to one lakh rupees.

79. Exploitation of a child employee.- Notwithstanding anything contained in any law for the time being in force, whoever ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees.

Explanation.- For the purposes of this section, the term "employment" shall also include selling goods and services, and entertainment in public places for economic gain.

80. Punitive measures for adoption without following prescribed procedures.- If any person or organisation offers or gives or receives, any orphan, abandoned or surrendered child, for the purpose of adoption without following the provisions or procedures as provided in this Act, such person or organisation shall be punishable with imprisonment of either description for a term which may extend upto three years, or with fine of one lakh rupees, or with both:

Provided in case where the offence is committed by a recognised adoption agency, in addition to the above punishment awarded to the persons in-charge of, and responsible for the conduct of the day-to-day affairs of the adoption agency, the registration of such agency under section 41 and its recognition under section 65 shall also be withdrawn for a minimum period of one year.

81. Sale and procurement of children for any purpose.- Any person who sells or buys a child for any purpose shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees:

Provided that where such offence is committed by a person having actual charge of the child, including employees of a hospital or nursing home or maternity home, the term of imprisonment shall not be less than three years and may extend up to seven years.

82. Corporal punishment.- (1) Any person in-charge of or employed in a child care institution, who subjects a child to corporal punishment with the aim of disciplining the child, shall be liable, on the first conviction, to a fine often thousand rupees and for every subsequent offence, shall be liable for imprisonment which may extend to three months or fine or with both.

(2) If a person employed in an institution referred to in sub-section (1), is convicted of an offence under that sub-section, such person shall also be liable for dismissal from service, and shall also be debarred from working directly with children thereafter.

(3) In case, where any corporal punishment is reported in an institution referred to in sub-section (1) and the management of such institution does not cooperate with any inquiry or comply with the orders of the Committee or the Board or court or State

Government, the person in-charge of the management of the institution shall be liable for punishment with imprisonment for a term not less than three years and shall also be liable to fine which may extend to one lakh rupees.

83. Use of child by militant groups or other adults.- (1) Any non-State, self-styled militant group or outfit declared as such by the Central Government, if recruits or uses any child for any purpose, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine of five lakh rupees.

(2) Any adult or an adult group uses children for illegal activities either individually or as a gang shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine of five lakh rupees.

84. Kidnapping and abduction of child.- For the purposes of this Act, the provisions of sections 359 to 369 of the Indian Penal Code, (45 of 1860) shall mutatis mutandis apply to a child or a minor who is under the age of eighteen years and all the provisions shall be construed accordingly.

85. Offences committed on disabled children.- Whoever commits any of the offences referred to in this Chapter on any child who is disabled as so certified by a medical practitioner, then, such person shall be liable to twice the penalty provided for such offence.

Explanation.- For the purposes of this Act, the term "disability" shall have the same meaning as assigned to it under clause (i) of section 2 ofthe Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. (1 of 1996)

86. Classification of offences and designated court.- (1) Where an offence under this Act is punishable with imprisonment for a term more than seven years, then, such offence shall be cognizable, non-bailable and triable by a Children's Court.

(2) Where an offence under this Act is punishable with imprisonment for a term of three years and above, but not more than seven years, then, such offence shall be cognizable, non-bailable and triable by a Magistrate of First Class.

(3) Where an offence, under this Act, is punishable with imprisonment for less than three years or with fine only, then, such offence shall be non-cognizable, bailable and triable by any Magistrate.

87. Abetment.- Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with the punishment provided for that offence.

Explanation.- An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment.

88. Alternative punishment.- Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the offender found guilty of such offence shall be liable for punishment under such law which provides for punishment which is greater in degree.

89. Offence committed by child under this Chapter.- Any child who commits any offence under this Chapter shall be considered as a child in conflict with law under this Act.

CHAPTER X

MISCELLANEOUS

90. Attendance of parent or guardian of child.- The Committee or the Board, as the case may be, before which a child is brought under any of the provisions of this Act, may, whenever it so thinks fit, require any parent or guardian having the actual charge of the child to be present at any proceeding in respect of that child.

91. Dispensing with attendance of child.- (1) If, at any stage during the course of an inquiry, the Committee or the Board is satisfied that the attendance of the child is not essential for the purpose of inquiry, the Committee or the Board, as the case may be, shall dispense with the attendance of a child and limit the same for the purpose of recording the statement and subsequently, the inquiry shall continue even in the absence of the child concerned, unless ordered otherwise by the Committee or the Board.

(2) Where the attendance of a child is required before the Board or the Committee, such child shall be entitled to travel reimbursement for self and one escort accompanying the child as per actual expenditure incurred, by the Board, or the Committee or the District Child Protection Unit, as the case may be.

92. Placement of a child suffering from disease requiring prolonged medical treatment in an approved place.- When a child, who has been brought before the Committee or the Board, is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the Committee or the Board, as the case may be, may send the child to any place recognised as a fit facility as prescribed for such period as it may think necessary for the required treatment.

93. Transfer of a child who is mentally ill or addicted to alcohol or other drugs.- (1) Where it appears to the Committee or the Board that any child kept in a special home or an observation home or a Children's Home or in an institution in pursuance of the provisions of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person, the Committee or the Board, may order removal of such child to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 (14 of 1987) or the rules made thereunder.

(2) In case the child had been removed to a psychiatric hospital or psychiatric nursing home under sub-section (1), the Committee or the Board may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the inpatient treatment of such child.

Explanation.-For the purposes of this sub-section,-

(a) "Integrated Rehabilitation Centre for Addicts" shall have the meaning assigned to it under the scheme called "Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services" framed by the Central Government in the Ministry of Social Justice and Empowerment or any other corresponding scheme for the time being in force;

(b) "mentally ill person" shall have the same meaning assigned to it in clause (l) of section 2 of the Mental Health Act, 1987; (14 of 1987)

(c) "psychiatric hospital" or "psychiatric nursing home" shall have the same meaning assigned to it in clause (q) of section 2 of the Mental Health Act, 1987. (14 of 1987)

94. Presumption and determination of age.- (1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining -

(i) the date of birth certificate from the school, or the matriculation or equi valent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

95. Transfer of a child to place of residence.- (1) If during the inquiry it is found that a child hails from a place outside the jurisdiction, the Board or Committee, as the case may be, shall, if satisfied after due inquiry that it is in the best interest of the child and after due consultation with the Committee or the Board of the child's home district, order the transfer of the child, as soon as possible, to the said Committee or the Board, along with relevant documents and following such procedure as may be prescribed:

Provided that such transfer can be made in case of a child in conflict with law, only after the inquiry has been completed and final order passed by the Board:

Provided further that in case of inter-State transfer, the child shall be, if convenient, handed over to the Committee or the Board, as the case may be, of the home district of the child, or to the Committee or the Board in the capital city of the home State.

(2) Once the decision to transfer is finalised, the Committee or Board, as the case may be, shall give an escort order to the Special Juvenile Police Unit to escort the child, within fifteen days of receiving such order:

Provided that a girl child shall be accompanied by a woman police officer:

Provided further that where a Special Juvenile Police Unit is not available, the Committee or Board, as the case may be, shall direct the institution where the child is temporarily staying or District Child Protection Unit, to provide an escort to accompany the child during travel.

(3) The State Government shall make rules to provide for travelling allowance to the escorting staff for the child, which shall be paid in advance.

(4) The Committee or the Board, as the case may be, receiving the transferred child will process for restoration or rehabilitation or social re-integration, as provided in this Act.

96. Transfer of child between Children's Homes, or special homes or fit facility or fit person in different parts of India.- (1) The State Government may at any time, on the recommendation of a Committee or Board, as the case may be, notwithstanding anything contained in this Act, and keeping the best interest of the child in mind, order the child's transfer from any Children's Home or special home or fit facility or fit person, to a home or facility, within the State with prior intimation to the concerned Committee or the Board:

Provided that for transfer of a child between similar home or facility or person within the same district, the Committee or Board, as the case may be, of the said district shall be competent to issue such an order.

(2) If transfer is being ordered by a State Government to an institution outside the State, this shall be done only in consultation with the concerned State Government.

(3) The total period of stay of the child in a Children's Home or a special home shall not be increased by such transfer.

(4) Orders passed under sub-sections (1) and (2) shall be deemed to be operative for the Committee or the Board, as the case may be, of the area to which the child is sent.

97. Release of a child from an institution.- (1) When a child is kept in a Children's Home or special home, on a report of a probation officer or social worker or of Government or a voluntary or non-governmental organisation, as the case may be, the Committee or the Board may consider, the release of such child, either absolutely or on such conditions as it may think fit to impose, permitting the child to live with parents or guardian or under the supervision of any authorised person named in the order, willing to receive and take charge, educate and train the child, for some useful trade or calling or to look after the child for rehabilitation:

Provided that if a child who has been released conditionally under this section, or the person under whose supervision the child has been placed, fails to fulfil such conditions, the Board or Committee may, if necessary, cause the child to be taken charge of and to be placed back in the concerned home.

(2) If the child has been released on a temporary basis, the time during which the child is not present in the concerned home in pursuance of the permission granted under sub-section (1) shall be deemed to be part of the time for which the child is liable to be kept in the children or special home:

Provided that in case of a child in conflict with law fails to fulfil the conditions set by the Board as mentioned in sub-section (1), the time for which he is still liable to be kept in the institution shall be extended by the Board for a period equivalent to the time which lapses due to such failure.

98. Leave of absence to a child placed in an institution.- (1) The Committee or the Board, as the case may be, may permit leave of absence to any child, to allow him, on special occasions like examination, marriage of relatives, death of kith or kin or accident or serious illness of parent or any emergency of like nature, under supervision, for a period generally not exceeding seven days in one instance, excluding the time taken in journey.

(2) The time during which a child is absent from an institution where he is placed, in pursuance of such permission granted under this section, shall be deemed to be part of the time for which he is liable to be kept in the Children's Home or special home.

(3) If a child refuses, or has failed to return to the Children's Home or special home, as the case may be, on the leave period being exhausted or permission being revoked or forfeited, the Board or Committee may, if necessary, cause him to be taken charge of and to be taken back to the concerned home:

Provided that when a child in conflict with law has failed to return to the special home on the leave period being exhausted or on permission being revoked or forfeited, the time for which he is still liable to be kept in the institution shall be extended by the Board for a period equivalent to the time which lapses due to such failure.

99. Reports to be treated as confidential.- (1) All reports related to the child and considered by the Committee or the Board shall be treated as confidential:

Provided that the Committee or the Board, as the case may be, may, if it so thinks fit, communicate the substance thereof to another Committee or Board or to the child or to the child's parent or guardian, and may give such Committee or the Board or the child or parent or guardian, an opportunity of producing evidence as may be relevant to the matter stated in the report.

(2) Notwithstanding anything contained in this Act, the victim shall not be denied access to their case record, orders and relevant papers.

100. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the Central Government, or the State Government or any person acting under the directions of the Central Government or State Government, as the case may be, in respect of anything which is done in good faith or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

101. Appeals.- (1) Subject to the provisions of this Act, any person aggrieved by an order made by the Committee or the Board under this Act may, within thirty days from the date of such order, prefer an appeal to the Children's Court, except for decisions by the Committee related to Foster Care and Sponsorship After Care for which the appeal shall lie with the District Magistrate:

Provided that the Court of Sessions, or the District Magistrate, as the case may be, may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time and such appeal shall be decided within a period of thirty days.

(2) An appeal shall lie against an order of the Board passed after making the preliminary assessment into a heinous offence under section 15 of the Act, before the Court of Sessions and the Court may, while deciding the appeal, take the assistance of experienced psychologists and medical specialists other than those whose assistance has been obtained by the Board in passing the order under the said section.

(3) No appeal shall lie from,-

(a) any order of acquittal made by the Board in respect of a child alleged to have committed an offence other than the heinous offence by a child who has completed or is above the age of sixteen years; or

(b) any order made by a Committee in respect of finding that a person is not a child in need of care and protection.

(4) No second appeal shall lie from any order of the Court of Session, passed in appeal under this section.

(5) Any person aggrieved by an order of the Children's Court may file an appeal before the High Court in accordance with the procedure specified in the Code of Criminal Procedure, 1973. (2 of 1974) .

102. Revision.- The High Court may, at any time, either on its own motion or on an application received in this behalf, call for the record of any proceeding in which any Committee or Board or Children's Court, or Court has passed an order, for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

103. Procedure in inquiries, appeals and revision proceedings.- (1) Save as otherwise expressly provided by this Act, a Committee or a Board while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973 for trial of summons cases. (2 of 1974)

(2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973. (2 of 1974)

104. Power of the Committee or the Board to amend its own orders.- (1) Without prejudice to the provisions for appeal and revision contained in this Act, the Committee or the Board may, on an application received in this behalf, amend any orders passed by itself, as to the institution to which a child is to be sent or as to the person under whose care or supervision a child is to be placed under this Act:

Provided that during the course of hearing for amending any such orders, there shall be at least two members of the Board of which one shall be the Principal Magistrate and at least three members of the Committee and all persons concerned, or their authorised representatives, whose views shall be heard by the Committee or the Board, as the case may be, before the said orders are amended.

(2) Clerical mistakes in orders passed by the Committee or the Board or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Committee or the Board, as the case may be, either on its own motion or on an application received in this behalf.

105. Juvenile justice fund.- (1) The State Government may create a fund in such name as it thinks fit for the welfare and rehabilitation of the children dealt with under this Act.

(2) There shall be credited to the fund such voluntary donations, contributions or subscriptions as may be made by any individual or organisation.

(3) The fund created under sub-section (1) shall be administered by the Department of the State Government implementing this Act in such manner and for such purposes as may be prescribed.

106. State Child Protection Society and District Child Protection Unit.- Every State Government shall constitute a Child Protection Society for the State and Child Protection Unit for every District, consisting of such officers and other employees as may be appointed by that Government, to take up matters relating to children with a view to ensure the implementation of this Act, including the establishment and maintenance of institutions under this Act, notification of competent authorities in relation to the children and their rehabilitation and co-ordination with various official and non-official agencies concerned and to discharge such other functions as may be prescribed.

107. Child Welfare Police Officer and Special Juvenile Police Unit.- (1) In every police station, at least one officer, not below the rank of assistant sub-inspector, with aptitude, appropriate training and orientation may be designated as the child welfare police officer to exclusively deal with children either as victims or perpetrators, in co-ordination with the police, voluntary and non-governmental organisations.

(2) To co-ordinate all functions of police related to children, the State Government shall constitute Special Juvenile Police Units in each district and city, headed by a police officer not below the rank of a Deputy Superintendent of Police or above and consisting of all police officers designated under sub-section (1) and two social workers having experience of working in the field of child welfare, of whom one shall be a woman.

(3) All police officers of the Special Juvenile Police Units shall be provided special training, especially at induction as child welfare police officer, to enable them to perform their functions more effectively.

(4) Special Juvenile Police Unit also includes Railway police dealing with children.

108. Public awareness on provisions of Act.- The Central Government and every State Government, shall take necessary measures to ensure that-

(a) the provisions of this Act are given wide publicity through media including television, radio and print media at regular intervals so as to make the general public, children and their parents or guardians aware of such provisions;

(b) the officers of the Central Government, State Government and other concerned, persons are imparted periodic training on the matters relating to the implementation of the provisions of this Act.

109. Monitoring of implementation of Act.- (1) The National Commission for Protection of Child Rights constituted under section 3, or as the case may be, the State Commission for Protection of Child Rights constituted under section 17 (herein referred to as the National Commission or the State Commission, as the case may be), of the Commissions for Protection of Child rights Act, 2005, (4 of 2006) shall, in addition to the functions assigned to them under the said Act, also monitor the implementation of the provisions of this Act, in such manner, as may be prescribed.

(2) The National Commission or, as the case may be, the State Commission, shall, while inquiring into any matter relating to any offence under this Act, have the same powers as are vested in the National Commission or the State Commission under the Commissions for Protection of Child Rights Act, 2005. (4 of 2006)

(3) The National Commission or, as the case may be, the State Commission, shall also include its activities under this section, in the annual report referred to in section 16 of the Commissions for Protection of Child Rights Act, 2005. (4 of 2006)

110. Power to make rules.- (1) The State Government shall, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government is required to make rules and where any such model rules have been framed in respect of any such matter, they shall apply to the State mutatis mutandis until the rules in respect of that matter are made by the State Government and while making any such rules, they conform to such model rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

(i) manner of inquiry in case of a missing or run away child or whose parents cannot be found under sub-clause (vii) of clause (14) of section 2;

(ii) responsibilities of the Child Welfare Officer attached to a Children's Home under clause (18) of section 2;

(iii) qualifications of the members of the Board under sub-section (2) of section 4;

(iv) induction training and sensitisation of all members of the Board under sub-section (5) of section 4;

(v) term of office of the members of the Board and the manner in which such member may resign under sub-section (6) of section 4;

(vi) time of the meetings of the Board and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 7;

(vii) qualifications, experience and payment of fees of an interpreter or translator under clause (d) of sub-section (3) of section 8;

(viii) any other function of the Board under clause (n) of sub-section (3) of section 8;

(ix) persons through whom any child alleged to be in conflict with law may be produced before the Board and the manner in which such a child may be sent to an observation home or place of safety under sub-section (2) of section 10;

(x) manner in which a person apprehended and not released on bail by the officer-in-charge of the police station may be kept in an observation home until such person is brought before a Board under sub-section (2) of section 12;

(xi) format for information on pendency in the Board to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate and District Magistrate on quarterly basis under sub-section (3) of section 16;

(xii) monitoring procedures and list of monitoring authorities under sub-section (2) of section 20;

(xiii) manner in which the relevant records of the child may be destroyed by the Board, police or the court under sub-section (2) of section 24;

(xiv) qualifications of the members of the Child Welfare Committee under sub-section (5) of section 27;

(xv) rules and procedures with regard to transaction of business at the meetings of the Child Welfare Committee under sub-section (1) of section 28;

(xvi) process of restoration of abandoned or lost children to their families under clause (x) of section 30;

(xvii) manner of submitting the report to the Committee and the manner of sending and entrusting the child to Children's Home or fit facility or fit person under sub-section (2) of section 31;

(xviii) manner of holding an inquiry by the Child Welfare Committee under sub¬section (1) of section 36;

(xix) manner in which a child may be sent to a Specialised Adoption Agency if the child is below six years of age, Children's Home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child including manner in which situation of the child placed in a Children's Home or with a fit facility or person or foster family, may be reviewed by the Committee under sub-section (3) of section 36;

(xx) manner in which a quarterly report may be submitted by the Committee to the District Magistrate for review of pendency of cases under sub-section (4) of section 36;

(xxi) any other order related to any other function of the Committee under clause (iii) of sub-section (2) of section 37;

(xxii) information to be given every month by the Committee to State Agency and Authority regarding number of children declared legally free for adoption and number of cases pending under sub-section (5) of section 38;

(xxiii) manner in which all institutions under this Act shall be registered under sub-section (1) of section 41;

(xxiv) procedure for cancelling or withholding registration of an institution that fails to provide rehabilitation and re-integration services under sub-section (7) of section 41;

(xxv) manner in which information shall be sent every month by the open shelter to the District Child Protection Unit and Committee under sub-section (3) of section 43;

(xxvi) procedure for placing children in foster care including group foster care under sub-section (1) of section 44;

(xxvii) procedure for inspection of children in foster care under sub-section (4) of section 44;

(xxviii) manner in which foster family shall provide education, health and nutrition to the child under sub-section (6) of section 44;

(xxix) procedure and criteria in which foster care services shall be provided to children under sub-section (7) of section 44;

(xxx) format for inspection of foster families by the Committee to check the well being of children under sub-section (8) of section 44;

(xxxi) purpose of undertaking various programmes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship under sub-section (1) of section 45;

(xxxii) duration of sponsorship under sub-section (3) of section 45;

(xxxiii) manner of providing financial support to any child leaving institutional care on completing eighteen years of age under section 46;

(xxxiv) management and monitoring of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a child alleged to be in conflict with law and the circumstances under which, and the manner in which, the registration of an observation home may be granted or withdrawn under sub-section (3) of section 47;

(xxxv) management and monitoring of special homes including the standards and various types of services to be provided to them under sub-section (2) and sub-section (3) of section 48;

(xxxvi) monitoring and management of children's homes including the standards and the nature of services to be provided by them, based on individual care plans for each child under sub-section (3) of section 50;

(xxxvii) manner in which a Board or the Committee shall recognise, a facility being run by a Governmental organisation or a voluntary or non-governmental organisation registered under any law for the time being in force, fit to temporarily take the responsibility of a child for a specific purpose after due inquiry regarding the suitability of the facility and the organisation to take care of the child under sub-section (1) of section 51;

(xxxviii) procedure of verification of credentials, for recognising any person fit to temporarily receive a child for care, protection and treatment of such child for a specified period by the Board or the Committee under sub-section (1) of section 52;

(xxxix) manner in which services shall be provided by an institution under this Act for rehabilitation and re-integration of children and standards for basic requirements such as food, shelter, clothing and medical attention under sub-section (1) of section 53;

(xl) manner in which Management Committee shall be set up by each institution for management of the institution and monitoring of the progress of every child under sub-section (2) of section 53;

(xli) activities that may be taken up by children's committees under sub-section (3) of section 53;

(xlii) appointment of inspection committees for all institutions registered or recognised fit, for the State and district under sub-section (1) of section 54;

(xliii) manner in which Central Government or State Government may independently evaluate the functioning of the Board, Committee, special juvenile police units, registered institutions, or recognised fit facilities and persons, including the period and through persons or institutions under sub-section (1) of section 55;

(xliv) manner in which institutions shall furnish details of children declared legally free for adoption to the Specialised Adoption Agency under sub-section (2) of section 66;

(xlv) any other function of the Authority under clause (e) of section 68;

(xlvi) criteria for the selection or nomination of the Members of the Steering Committee of the Authority and their tenure as well as the terms and conditions of their appointment under sub-section (2) of section 69;

(xlvii) manner in which Steering Committee of the Authority shall meet under sub-section (4) of section 69;

(xlviii) manner in which the Authority shall submit an annual report to the Central Government under sub-section (1) of section 71;

(xlix) functions of the Authority under sub-section (2) of section 72;

(l) manner in which the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts under sub-section (1) of section 73;

(li) period that the Committee or Board may think necessary for the treatment of children who are found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment to a fit facility under section 92;

(lii) procedure for transfer of child under sub-section (1) of section 95;

(liii) provision for travelling allowance to the escorting staff for the child under sub-section (3) of section 95;

(liv) procedure to be followed by the Committee or a Board while holding any inquiry, appeal or revision under sub-section (1) of section 103;

(lv) manner in which juvenile justice fund shall be administered under sub-section (3) of section 105;

(lvi) functioning of the Child Protection Society for the State and Child Protection Units for every district under section 106;

(lvii) to enable the National Commission, or as the case may be, the State Commission to monitor implementation of the provisions of this Act under sub-section (1) of section 109;

(lviii) any other matter which is required to be, or may be, prescribed.

(3) Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

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(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

111. Repeal and savings.- (1) The Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

112. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions ofthis Act, remove the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) However, order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

SRINIVAS R. JOSHI,
Assistant Draftsman and
Ex-Officio Deputy Secretary to Government I/C
Department of Parliamentary Affairs.

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ಮುದ್ರಕರು ಹಾಗೂ ಪ್ರಕಾಶಕರು:– ಸಂಕಲನಾಧಿಕಾರಿಗಳು, ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ, ಸರ್ಕಾರಿ ಕೇಂದ್ರ ಮುದ್ರಣಾಲಯ, ಬೆಂಗಳೂರು–59